

EXPLANATORY MEMORANDUM TO
THE NATIONAL INSURANCE CONTRIBUTIONS ACT 2022 (FREEPORTS AND
INVESTMENT ZONES) (CONSEQUENTIAL AMENDMENTS) REGULATIONS
2023

2023 No. 812

1. Introduction

- 1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) on behalf of His Majesty's Treasury and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 This instrument makes consequential amendments to the National Insurance Contributions Act 2022 (Application of Part 1) Regulations 2022 (S.I. 2022/307) and the Social Security Contributions (Freeports) Regulations 2022 (S.I. 2022/313), following changes made by the Finance (No. 2) Act 2023 to the National Insurance Contributions Act (NICA) 2022, which provides for the National Insurance contributions (NICs) relief available in freeports to apply to both freeports and investment zones. These amendments have effect from 8 August 2023.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument (that is, the jurisdiction which the instrument forms part of the law of) is Great Britain.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 Sections 331, 332 and Schedule 23 of the Finance (No. 2) Act 2023 extends the tax and NICs reliefs available in freeport tax sites to such sites in or connected with investment zones.
- 6.2 Consequently, freeport references within Parts 1 and 4 of NICA 2022 have been amended by Schedule 23 of the Finance (No. 2) Act 2023 to extend the freeport secondary Class 1 NICs relief to special tax sites in or connected with investment zones.

- 6.3 S.I. 2022/307 and S.I. 2022/313 are amended to make equivalent consequential amendments to extend their provisions to both freeports and special tax sites in or connected with investment zones.
- 6.4 S.I. 2022/307 enables those employments eligible for multiple NICs rates, but to which HMRC has not assigned the relevant NICs category letters, to still be able to claim the employer NICs relief relevant to freeports.
- 6.5 S.I. 2022/313 provides that the condition in Section 2(1)(d) of the NICA 2022 is met where an employer makes an adjustment to their employee's working pattern to accommodate a protected characteristic of disability, maternity or pregnancy.

7. Policy background

What is being done and why?

- 7.1 At Spring Budget 2023, the government announced the refocused Investment Zone Programme to catalyse 12 high-potential knowledge-intensive growth clusters across the UK. The government's Investment Zone Policy introduced through the Finance (No. 2) Act 2023 extends the tax and NICs reliefs available in freeports tax sites to such sites in or connected with investment zones. These reliefs are one part of the wider investment zones policy. For NICs, this means that the secondary Class 1 NICs relief for eligible employers on earnings of eligible employees up to £25,000 per year for 36 months in freeport tax sites, is also being extended to special tax sites in or connected with investment zones.
- 7.2 The changes introduced by the Finance (No. 2) Act 2023 include consequential amendments to the NICA 2022 to enable the secondary Class 1 NICs relief to apply to both freeports and investment zones.
- 7.3 This instrument ensures that the freeport references within the two instruments made under NICA 2022 (S.I. 2022/307 and S.I.2022/313) are amended to reflect the changes made to NICA 2022.
- 7.4 These amendments are being made so the NICs relief continues to be available in freeports for employees with protected characteristics of disability, maternity and pregnancy and also those eligible for multiple NICs rates. The changes will also ensure the NICs relief will apply to these groups in investment zones.
- 7.5 The freeport references within S.I. 2022/307 and S.I. 2022/313 are being amended to enable the relevant provisions in both regulations to apply to employers in "special tax sites" (freeports and investment zones).

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 Consolidation is not being considered at this time.

10. Consultation outcome

- 10.1 No consultation was carried out on this instrument because it introduces minor consequential changes to ensure NICs freeport and investment zone secondary legislation reflects the changes made to NICA 2022 by the Finance (No.2) Act 2023.

11. Guidance

- 11.1 Existing freeports guidance will be updated to reflect the changes that have been made to provide for the secondary Class 1 NICs relief to apply to both freeports and investment zones following site designation of an investment zone. Updated guidance will be available at: <https://www.gov.uk/guidance/check-if-you-can-claim-national-insurance-relief-in-freeport-tax-sites>.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note covering this instrument was published on 15 March 2023 and is available on the gov.uk website at: <https://www.gov.uk/government/publications/investment-zone-special-tax-sites/investment-zone-special-tax-sites-with-enhanced-tax-and-national-insurance-contributions-reliefs>. It remains an accurate summary of the impacts that apply to this instrument.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses in so far as the business is operating within a special tax site.
- 13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is to publish clear guidance that allows employers to familiarise themselves with the reliefs.
- 13.3 The basis for the final decision on what action to take to assist small businesses is to publish clear guidance for freeport and investment zone employers which will provide sufficient support to them claiming the reliefs. Further, there is no requirement for employers to claim these reliefs.

14. Monitoring & review

- 14.1 This instrument makes consequential amendments to freeport references within the existing regulations and will be monitored through ongoing engagement with stakeholders.
- 14.2 The instrument does not include a statutory review clause because it relates to a tax, duty, levy or other charge and therefore meets the requirements of the exemption set out in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

- 15.1 Muhammad Chaudhary at HMRC Telephone: 03000 534 629 or email: muhammad.chaudhary@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Edmund Hair, Deputy Director for National Insurance Policy, International and Student Finance, at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Victoria Atkins MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.